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STATE BAR OF MICHIGAN



February 6, 2004

Supreme Court Clerk  
P.O. Box 30052  
Lansing, MI 48909

FEB 12 2004

Re: ADM File No. 2003-60  
Proposed Amendment of MCR 5.125

Dear Clerk of the Supreme Court:

I am writing on behalf of the Probate and Estate Planning Council, the governing body of the Probate and Estate Planning Section of the State Bar of Michigan. At the January 17, 2004 meeting of the Probate and Estate Planning Council, the Council directed me to convey our comment upon the proposed addition of a subsection (f) to Michigan Court Rule 5.125(C)(6). The Council proposes the following subsection (f) in complete substitution of the published language:

(f) sureties whose interests are adversely affected by the relief requested.

The Council believes that sureties on bonds (a more accurate term than "insurers") should be notified of an account when their interests could be adversely affected because the account is being challenged or a surcharge of the fiduciary is being requested. In cases where an account is uncontested, however, the allowance of the account relieves the surety of liability. Thus, we propose that the rule be limited to those situations where the interest of a surety may be adversely affected. The staff comment to the rule change could be revised as follows:

MCR 5.125 has been amended to add sureties as interested persons who must receive notice of a proceeding for an examination of an account of a fiduciary if the surety would be adversely affected by the relief sought.

Thank you for your attention to this comment.

Very truly yours,

Henry M. Grix  
Chairperson  
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cc: Hon. Phillip E. Harter  
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